

REMARKS

Per the Examiner's suggestion to Applicants' attorney, Alice Carroll, Claims 14, 32, 34 and 36 have been amended to recite "in amounts effective to manage symptomology associated with stress resulting from serotonin-deficient disorders." The claims, as amended, are drawn to methods of using the novel, non-obvious and enabled nutritional supplement claimed in the parent application, U.S. serial number 09/783,709 (allowed as of November 4, 2003). According to *In re Ochiai*, 71 F.3d 1565, 37 USPQ2d 1127 (Fed. Cir., 1995), a method of using a novel, non-obvious product is itself non-obvious where the prior art does not suggest or motivate the use of the non-obvious product. Like *Ochiai*, there is no suggestion or motivation in Bell (U.S. Patent No. 5,968,896) in view of Pollack (U.S. Patent No. 4,853,377) to use the novel and non-obvious product as claimed. Therefore, the claimed method of use is non-obvious over Bell in view of Pollack. Reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first paragraph and 35 U.S.C. § 103(a) are respectfully requested.


Applicants bring U.S. 6,132,724 (Blum) to the Examiner's attention. This reference was made of record and considered by the Examiner in the parent application (U.S. serial number 09/783,709), drawn to compositions of matter. U.S. serial number 09/783,709 was allowed as of November 4, 2003 by the same Examiner as in the present application. Due to the length of the Blum patent, only the cover page is included herewith. As discussed above, the claimed method of using the novel and non-obvious product of U.S. serial number 09/783,709 is also non-obvious. If the Examiner believes that entry of the Blum patent requires refiling the present application, Applicants will file a Request for Continued Examination under 37 CFR § 1.114 together with a Supplemental Information Disclosure Statement. However, it is believed that this is not necessary since the composition of matter was found to be patentable over the Blum patent.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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